

REMARKS

Claim 1 is pending in the present application. Claim 1 has been amended to change “return path repeater systems” to “return path system repeaters.” This is a mere correction of the claim language. The “return path system repeaters” are fully disclosed in the specification (See Fig. 2, 224, described in paragraph [0033] and Fig. 4, 406A and 406B, described in paragraph [0031]). This claim amendment was not made to overcome the Examiner’s rejection. Rather, the intent of the amendment is to assist the Examiner and others in properly recognizing the elements that comprise the invention.

Applicant has carefully studied the outstanding Office Action. The present Response is intended to be fully responsive to all points of rejection raised by the Examiner and is believed to place the application in condition for allowance. Favorable reconsideration and allowance of this application are respectfully requested. No new matter has been added by any of the amendments to the specification. Applicant respectfully requests reconsideration and withdrawal of the Examiner’s rejections in view of the foregoing amendments and following remarks.

CLAIM REJECTIONS – 35 U.S.C. § 103(a)

Claim 1

The Examiner rejected claim 1 under 35 U.S.C. §103(a), as being unpatentable over Dharia et al, U.S. Publication No. 2002/0123337, and further in view of Briskman, U.S. Patent No. 5,864,579. The Examiner has stated:

Dharian [sic] discloses a system for data transmission and reception comprising (abstract):

a wireless data broadcast system broadcasting outgoing data from a data network to a plurality of users, the wireless data broadcast system further comprising (Fig. 1, element 123, 101, 111-n, MS):

a wireless data return path system receiving incoming data from the plurality of users and providing the incoming data to the data network, the wireless data return path system further comprising (page 1, [0005]; Dharian [sic] teaches an up link and down link for receiving and sending traffic between users and BTS);

one or more wireless collector systems receiving data from a predetermined set of the plurality of users (page 1, [0005]; Dharian [sic] teaches the use of collectors to broadcast traffic);

Although the system disclosed by Dharian [sic] shows substantial features of the claimed invention, it fails to disclose:

one or more wireless broadcast repeaters and one ore [sic] more return path repeater systems receiving data from one or more predetermined wireless collector systems; and

wherein the system uses terrestrial line-of-sight broadcasting in conjunction with satellite data transmission systems.

In support of the 103(a) rejection, the Examiner points to analogous art, Briskman:

However, in an analogous art, Briskman teaches:

one or more wireless broadcast repeaters (Fig. 1, Briskman teaches repeaters in figure 1) and one ore [sic] more return path repeater systems receiving data from one or more predetermined wireless collector systems (col. 6, line 8-54); and

wherein the system uses terrestrial line-of-sight broadcasting in conjunction with satellite data transmission systems (abstract, Fig. 1, col. 2, lines 35-60).

Given the teachings of Dharian [sic] and Briskman, a person having ordinary skill in the art at the time of the invention would have recognized the desirability and advantages of adding repeaters and using terrestrial line-of-sight broadcasting in conjunction with satellite in order to increase reliability.

In establishing a *prima facie* case of obviousness, the Examiner must show three things.

First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Third, all the claim limitations must be shown in the prior art reference or references. *In re Vaeck*, 947 F.2d 488, 20 USPQ2d 1438 (Fed. Cir. 1991).

Here, the burden on the Examiner to establish a *prima facie* case of obviousness has not been satisfied. The Examiner has not shown where in the references “one or more wireless broadcast repeaters and one or more return path repeater systems receiving data from one or more predetermined wireless collector systems” is taught or suggested. The Examiner points to Figure 1 of Briskman to teach the repeaters and then points to column 6, lines 8-54 for the “one or more return path repeater systems receiving data from one or more predetermined wireless collector systems.” The disclosure in Briskman only involves a one-way distribution system, wherein there is no return path. Therefore Briskman does not suggest or teach return path repeater

systems (as originally filed) or return path system repeater (as amended). “All words in a claim must be considered in judging the patentability of that claim against the prior art.” *In re Wilson*, 424 F.2d 1382, 1385, 165 USPQ 494, 496 (CCPA 1970). Therefore, claim 1 of the present application is not obvious under 35 U.S.C. §103(a) in view of Dharia in view of Briskman.

CONCLUSION

It is respectfully urged that the subject application is patentable over references cited by Examiner and is now in condition for allowance. Applicant requests consideration of the application and allowance of the claims. If there are any outstanding issues that the Examiner feels may be resolved by way of a telephone conference, the Examiner is cordially invited to contact David W. Carstens at 972.367.2001.

The Commissioner is hereby authorized to charge any additional payments that may be due for additional claims to Deposit Account 50-0392.

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Respectfully submitted,

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